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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,024	03/30/2000	Steven G. Glassen	POU9-1999-0176-US1	7679

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EXAMINER
KING, JUSTIN

ART UNIT	PAPER NUMBER
2181	8

DATE MAILED: 03/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/539,024	Applicant(s) GLASSEN ET AL.	
	Examiner Justin I. King	Art Unit 2181	

-- The MAILING DATE of this communication app ars on the cover she t with th correspondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 January 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-54* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Galbraith et al. (U.S. Patent No. 5,265,240).

Referring to claim 1: Galbraith discloses a method of determining utilization of channel components of a computing environment, comprises obtaining measurement data for a selected component of a channel with a plurality of components (figure 1), and using the measurement data to determine utilization of the selected component (column 3, lines 54-68, column 4, lines 1-12). Hence, the claim 1 is anticipated by Galbraith.

Referring to claim 2: Galbraith discloses that the obtaining means comprises obtaining measurement data for multiple components (column 3, lines 54-60), and wherein the using means comprises using the measurement data to determine utilization for each of the multiple components. Hence, claim 2 is anticipated by Galbraith.

Referring to claims 3-4, 16, 23-24, 34, 44-45, and 51: Galbraith discloses that measurement is for each operation system, such Galbraith obtains the operational characteristics to determine component's utilization.

Referring to claims 5-6, 17, 25-26, 35, and 46: Galbraith discloses the continuous measuring approach which may last a few seconds to several hours (column 2, lines 1-3), and

Galbraith also discloses a statistical technique (column 2, lines 21-26) that measures selected intervals among a plurality of predefined intervals. The dividing average change by a value of at least one of the one or more operational characteristics is a basic statistic practice. The inherent statistic calculation provides the average and a standard deviation for allowable range of errors.

Referring to claims 7-10, 27-30, and 47: Claims 7-10, 27-30, and 47 are rejected over Galbraith as stated above; furthermore, since Galbraith discloses the measurement on each individual component, it is obvious that the measurement will be done based on each component's inherent properties. Such that the internal bus will be measured on its bus speed, the processor will be measured on its processing speed, and any external bus devices (for instance, the external SCSI devices) will be measured on its accessing speed. And the internal bus, external bus, and processor are common in every computer system.

Referring to claims 11-12, 20, 31-32, 38, 41, and 48-49: Claims are rejected over Galbraith as stated above; furthermore, Galbraith discloses a plurality of logical partitions (column 4, lines 15-16) and Galbraith also discloses that it is known to measure the utilization for each logical partition (column 2, lines 6-14).

Referring to claims 13-14: Claims 13-14 are rejected over Galbraith as stated above; furthermore, Galbraith discloses the channel-path-measurement facility (column 1, lines 8-9) and a plurality of concurrently processed measurements (column 6, lines 60-62). In addition, Galbraith also discloses several different modes for the measuring instructions (column 12m, lines 8-21, column 13, lines 14-66). Thus, Galbraith discloses a plurality of measurement instructions concurrently executing in different modes.

Referring to claim 15: Galbraith discloses a method of obtaining information associated with channel components of a computing environment, comprises selecting a channel within the

computing environment to be monitored, and obtaining data on one or more components of the plurality of components; and the channel comprising a plurality of components (figure 1, column 3, lines 54-68, column 4,lines 1-12). Hence, claim 15 is anticipated by Galbraith.

Referring to claim 18: Galbraith discloses that the obtaining data comprises obtaining measurement data usable in determining utilization of the one or more components (column 3, lines 54-60). Hence, claim 18 is anticipated by Galbraith.

Referring to claims 19, 37, and 53: Galbraith discloses that the obtaining data comprises obtaining one or more operational characteristics of the components, and obtaining measurement data for each components, wherein the one or more operational characteristics and the measurement data are used to determine utilization of the one or more components (column 3,lines 54-60).

Referring to claim 21: Galbraith discloses a system of determining utilization of channel components of a computing environment, comprises means for obtaining measurement data for a selected component of a channel with a plurality of components (figure 1), and means for using the measurement data to determine utilization of the selected component (column 3, lines 54-60). Hence, claim 21 is anticipated by Galbraith.

Referring to claim 22: Galbraith discloses that the means for obtaining comprises means for obtaining measurement data for multiple components, and the means for using comprises using the measurement data to determine utilization for each of the multiple components (column 3, lines 54-60). Hence, claim 22 is anticipated by Galbraith.

Referring to claim 33: Galbraith discloses a system of obtaining information associated with channel components of a computing environment, comprises means for selecting a channel

with a plurality of components to be monitored, and means for obtaining data on one or more components (column 3, lines 54-60). Hence, claim 33 is anticipated by Galbraith.

Referring to claim 36: Galbraith discloses that the means for obtaining data comprises means for obtaining measurement data usable in determining utilization of the one or more components (column 3, lines 54-60). Hence, claim 36 is anticipated by Galbraith.

Referring to claim 39: Galbraith discloses a system of determining utilization of channel components of a computing environment, comprises at least one processor (figure 1, structure channel processor) adapted to obtain measurement data for a selected component of a channel, and at least one processor adapted to use the measurement data to determine utilization of the selected component (column 3, lines 54-68, column 4, lines 1-12). Hence, claim 39 is anticipated by Galbraith.

Referring to claim 40: Galbraith discloses a system of obtaining information associated with channel components of a computing environment, comprises a channel with a plurality of components (figure 1), and at least one processor (figure 1, structure channel processor) adapted to obtain data on one or more components. Hence, claim 40 is anticipated by Galbraith.

Referring to claims 42 and 54: Galbraith discloses a method comprising obtaining, on behalf of a logical partition involved in determining utilization of a channel, measurement data for the channel; the measurement data is representative of use of the channel by the logical partition and representative of use by one or more other logical partitions of the plurality of logical partitions; and uses the measurement data to determine utilization of the channel (figure 1, column 54-68, column 4, lines 1-12). Galbraith's operation is implemented as a software program/instructions and stored in a storage device, which is readable by a machine, tangibly embodying program of instructions executable by the machine to perform.

Referring to claim 43: Galbraith disclose that the obtaining means comprises obtaining measurement data for multiple components, and the using means comprises using the measurement data to determine utilization for each of the multiple components (column 3, lines 54-60). Hence, claim 43 is anticipated by Galbraith.

Referring to claim 50: Galbraith discloses an article comprising at least one computer usable medium having computer readable program code means embodied therein for causing the obtaining of information associated with channel components of a computing environment; the computer readable program code means in the article of manufacture comprises computer readable program code means for causing a computer to select a channel within the computing environment to be monitored, the channel comprises a plurality of components, and computer readable program code means for causing a computer to obtain data on one or more components of the plurality of components (column 1,liens 56-68, columns 2-3, column 4, lines 1-12). Hence, claim 50 is anticipated by Galbraith.

Referring to claim 52: Galbraith discloses that the computer readable program code with the means for causing a computer to obtain data including computer readable program code, and the means for causing a computer to obtain measurement data usable in determining utilization of the one or more components (column 3, lines 54-60). Hence, claim 52 is anticipated by Galbraith.

Response to Arguments

3. Applicant argues that a channel is considered as one entity in Galbraith, and Applicant further states that this is supported by the abstract saying "Provides a method for measuring the busy utilization time for I/O channel used by any of plural operating systems (OSs) in a CEC"

(Remark page 15, paragraph 3): Galbraith's channel does include a plurality of components. Applicant's figure 1 shows the plurality of channel components (structure 116); Galbraith's figure 1, which is substantially similar to Applicant's figure 1, also has the channel components. Galbraith's abstract's statement quoted by Applicant merely states the description of Galbraith, it does not negate the fact that Galbraith's channel includes a plurality of components.

4. Applicant argues that Galbraith measures the utilization for the entire I/O channel (Remark page 15, paragraph): Galbraith discloses a measurement of each individual component (column 3, lines 54-68, and column 4, lines 1-12). Galbraith's column 3, lines 54-56 states that each channel performs its own measurement; and the channels here means the channels within the I/O channel subsystem (as shown in Galbraith's figure 1, and further supported in column 3, lines 57-60), which is the components of the I/O channel subsystem, and the components of Applicant's claimed channel.

5. Applicant argues that the connecting time as meaning to consider the connected device as the channel components: Neither Galbraith nor Examiner considers the connected device as the channel's components. The connected device is mentioned as a part of the I/O channel resource utilization.

Conclusion

6. The prior art made of recorded and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,919,268 to McDonald.

U.S. Patent No. 4,485,440 to Duff et al..

U.S. Patent No. 6,018,803 to Kardach.

U.S. Patent No. 3,599,091 to Warner, Jr..

U.S. Patent No. 6,122,693 to Gutta et al..

U.S. Patent No. 5,297,274 to Jackson.

U.S. Patents No. 5,835,702 and 5,991,708 to Levine et al..

U.S. Patent No. 5,689,691 to Mann.

U.S. Patent No. 5,896,552 to Kowert.

U.S. Patent No. 4,497,022 to Cormier et al..

U.S. Patents No. 5,473,665 and 5,661,778 to Hall et al..

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin King whose telephone number is (703) 305-4571. The examiner can normally be reached on Monday through Friday from 9:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephones are unsuccessfully, the examiner's supervisor, Mark Reinhart can be reached at (703) 308-3110.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose number is (703)-306-5631.

Justin King
March 21, 2003

Gopal C. Ray

GOPAL C. RAY
PRIMARY EXAMINER
GROUP 2100